

Message Text

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12

ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 NSCE-00 /026 W

----- 119453

O R 010625Z MAY 75

FM AMEMBASSY SINGAPORE

TO SECSTATE WASHDC IMMEDIATE 2451

INFO AMEMBASSY MANILA

AMEMBASSY BANGKOK

AMEMBASSY KUALA LUMPUR

S E C R E T SINGAPORE 1794

EXDIS

DEPT ALSO PASS CINCPAC FOR POLAD

E.O. 11652: GDS

TAGS: MASS, VS, SN

SUBJECT: STATUS OF VNAF C-130'S AND C-47 IN SINGAPORE

REF: A. STATE 097380

B. SINGAPORE 1775

C. SINGAPORE 1691

SUMMARY:

GOS INITIAL REACTION TO POSSIBLE U.S. CLAIM TO OWNERSHIP OF C-130 AND C-47 AIRCRAFT IS THAT U.S. DOES NOT HAVE SUFFICIENT LEGAL CLAIM TO AIRCRAFT TO WARRANT TURNING THEM OVER TO USG IMMEDIATELY. GOS IS ALSO AWARE OF BROADER LEGAL AND POLITICAL CONSIDERATIONS INVOLVED, BUT ACTING PRIME MINISTER GOH HAS DECIDED TO DEFER A DECISION UNTIL THE PRIME MINISTER AND FOREIGN MINISTER RETURN FROM WASHINGTON MID-MAY. I BELIEVE GOS IS STALLING UNTIL FULL DIMENSIONS OF REFUGEE PROBLEM BECOME CLEARER, AND WILL THEN ATTEMPT TO USE AIRCRAFT AS LEVERAGE TO OBTAIN OUR AGREEMENT TO ACCEPT ALL OR MOST OF THE REFUGEES. REQUEST DEPT. PROVIDE STRONGER LEGAL RATIONALE FOR REPOSSESSING AIRCRAFT (IF POSSIBLE.) I ALSO BELIEVE IT WOULD BE USEFUL FOR ASSISTANT SECRETARY HABIB TO RAISE MATTER
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WITH PRIME MINISTER LEE AS INDICATED PARA 6.

END SUMMARY

1. SECOND PERMSEC FOR DEFENSE TAY SEOW HUAH REQUESTED MEETING WITH DCM AND DAO APRIL 30 TO DISCUSS STATUS OF 6 C-130 VNAF AIRCRAFT AND ONE C-47 (WHICH ARRIVED FROM VIETNAM ON APRIL 29. TAY SAID ATTORNEY GENERAL HAD STUDIED TEXTS OF AGREEMENT FOR MUTUAL DEFENSE ASSISTANCE IN INDOCHINA OF DECEMBER 23, 1950 AND THE DISPOSITION OF EQUIPMENT AND MATERIALS AGREEMENT OF MAY 10, 1955. ATTORNEY GENERAL'S INITIAL REACTION WAS THAT THESE AGREEMENTS DID NOT INDICATE A RESIDUAL OWNERSHIP BY THE USG. TAY NOTED THAT UNDER THE 1950 AGREEMENT TITLE TO MILITARY EQUIPMENT PROVIDED TO THE GVN ACTUALLY PASSED TO THE RECIPIENT. FURTHERMORE, THE 1955 AGREEMENT REQUIRED THAT THE GVN EITHER REPORT TO THE USG EQUIPMENT OR MATERIALS NO LONGER REQUIRED OR ELSE BE CONSULTED BY THE USG WITH RESPECT TO MATERIALS WHICH MIGHT FALL IN THIS CATEGORY. THESE WERE ESSENTIAL PREREQUISITES BEFORE US COULD ACCEPT TITLE TO AIRCRAFT.

2. TAY SAID THE AG WAS ALSO TAKING A CLOSE LOOK AT THE PROTOCOL RELATING TO THE STATUS OF REFUGEES SIGNED AT GENEVA ON JULY 28, 1951 TO DETERMINE WHETHER IT GOVERNED THE DISPOSITION OF GOVERNMENT PROPERTY BROUGHT BY REFUGEES WHO FLED TO ANOTHER COUNTRY. HE ALSO WISHED TO EXPLORE THE RIGHTS OF NON-COMBATANT POWERS. TAY MADE IT CLEAR THAT THE GOS HAD NOT TAKEN A FINAL POSITION ON THE MATTER, AND AGREED WITH POINT MADE BY DCM THAT THERE WERE BROADER LEGAL AND OTHER CONSIDERATIONS WHICH GOS SHOULD TAKE INTO ACCOUNT BEFORE REACHING FINAL DECISION ON OWNERSHIP OF THESE PLANES. TAY SAID HE DID NOT THINK GOS WOULD CONTEMPLATE HAVING MATTER CONTESTED IN THE COURTS. TAY ALSO INDICATED GOS WAS NO LONGER DISTINGUISHING BETWEEN THE C-130 AIRCRAFT WHICH BROUGHT IN 56 REFUGEES AND THE REMAINING AIRCRAFT BEING WORKED ON BY LOCKHEED SINGAPORE. REFERRING TO THE MFA AIDE MEMOIRE ON THIS SUBJECT, HE SAID PROPOSED ARRANGEMENT WHEREBY C-130 WOULD BE RETURNED IF U.S. TOOK CARE OF 56 REFUGEES PRESUPPOSED THAT THE AIRCRAFT WOULD BE FLOWN BACK TO VIETNAM BY A USAF CREW. THIS WAS NO LONGER POSSIBLE.

3. IN VIEW OF ABOVE CONSIDERATIONS, TAY SAID ACTING PRIME MINISTER GOH HAD DECIDED THAT GOS COULD NOT MAKE A FINAL DECISION
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ABOUT TURNING OVER THESE AIRCRAFT TO THE USG UNTIL THE PRIME MINISTER AND FOREIGN MINISTER RAJARATNAM RETURNED FROM WASHINGTON. HE NOTED THAT FOREIGN POLICY CONSIDERATIONS WERE INVOLVED AND WOULD HAVE TO BE CONSIDERED. HE SAID THAT GOS DID NOT WANT TO RETURN THIS EQUIPMENT TO THE COMMUNISTS IN VIETNAM.

4. COMMENT: ALTHOUGH OUR LEGAL CASE APPEARS RATHER WEAK, I BELIEVE GOS IS DELIBERATELY STALLING UNTIL THE DIMENSIONS OF THE REFUGEE PROBLEM BECOME CLEARER. GOS IS PROBABLY FEARFUL THAT BOAT LOADS OF REFUGEES FROM VIETNAM WILL SOON BE ON THEIR SHORES AND THEY ALSO MAY BE WORRYING ABOUT WHAT TO DO WITH THE MEMBERS OF THE VIETNAMESE EMBASSY STAFF (22) AND OTHER VIETNAMESE IN SINGAPORE WHO REQUEST ASYLUM.

5. SINCE GOS DOES NOT WANT TO RETURN THE PLANES TO THE PRG OR HANOI, I THINK IT WILL EVENTUALLY DECIDE TO RETURN THIS EQUIPMENT TO US. HOWEVER, I BELIEVE GOS IS CONTEMPLATING USING THE PLANES AS LEVERAGE TO OBTAIN OUR AGREEMENT TO ACCEPTING ALL THE REFUGEES WHO LAND HERE AND RESIDENT VIETNAMESE WHOM THEY DON'T WANT. AT SAME TIME, BY DELAYING THE RETURN OF THE AIRCRAFT, GOS MAY BE CREATING A POTENTIAL PROBLEM FOR ITS FUTURE DEALINGS WITH THE PRG.

6. I INTEND TO HOLD OFF DISCUSSING THIS MATTER WITH GOS FOR A FEW DAYS. MEANWHILE, IF DEPT. CAN COME UP WITH STRONGER LEGAL CASE, REQUEST IT BE FORWARDED ASAP. BUT THE LEGALITIES ARE ALMOST CERTAINLY SECONDARY IN GOS VIEW. THEREFORE I SUGGEST ASST. SEC. HABIB RAISE THIS SUBJECT WITH PM LEE AND FOREIGN MINISTER RAJARATNAM. BELIEVE MATTER COULD BE SET FORTH IN FOLLOWING TERMS:

A) THERE IS NO QUESTION IN OUR MINDS THAT WE HAVE A LEGAL RIGHT TO THESE AIRCRAFT AND IT WOULD BE REGRETTABLE IF WE GOT INVOLVED IN A LONG LEGAL DEBATE ON THE MATTER;

B) WE WOULD THINK IT WOULD BE IN SINGAPORE'S INTEREST TO RETURN THE AIRCRAFT TO US AND GET THEM OUT OF THE COUNTRY BEFORE THE PRG TAKES AN INTEREST IN THEM;

C) WE WILL BE AS HELPFUL WITH THE RESETTLEMENT OF THE REFUGEES AS POSSIBLE, BUT WOULD HOPE SINGAPORE COULD ABSORB A CERTAIN
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NUMBER. (IF IT IS POSSIBLE FOR US TO ACCEPT GOS OFFER SET FORTH REF C TO EFFECT THAT IF THE US WOULD GUARANTEE TO TAKE 70 - 80 PERCENT OF REFUGEES WHO LANDED IN SINGAPORE, GOS WOULD HANDLE THE REST, IT WOULD HELP IF WE COULD TELL LEE THAT.)

REQUEST DEPT. AND BANGKOK KEEP US INFORMED OF DEVELOPMENTS RELATED TO SIMILAR PROBLEM IN THAILAND.
CRONK

NOTE BY OC/T: NOT PASSED CINCPAC.

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